

## Audit and Risk Committee – for decision

Meeting date: 18 October 2021

Time required: 10 minutes

Presenter: Louise Byers

### 1. Topic

- 1.1. Preparation of a Trust Statement for the ICO Financial Accounts.

### 2. Issue

- 2.1. In 2020/21, the ICO's Audit and Risk Committee indicated that they would support the preparation of a Trust Statement in the ICO's accounts. However, DCMS and Treasury (HMT) agreement was needed to make these changes, and they were not able to support its inclusion in last year's accounts. As a result, an action was taken as part of our lessons learnt process to consider again the inclusion of Trust Statement in the 2021/22 Accounts at the October 2021 Audit Committee.
- 2.2. This paper sets out the most recent developments in this discussion and recommends that a Trust Statement is not included in the 2021/22 Accounts. This is in line with advice from DCMS Finance, in consultation with NAO and HMT.
- 2.3. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] It also recommends that we continue to include an enhanced disclosure in our accounts regarding our fines, as we did in the 2020/21 Annual Report.

### 3. Reason for report

- 3.1. As discussed at the January Committee, a Trust Statement would provide a report showing the revenues and expenditures and assets and liabilities related to fines and penalties that are collected by the ICO and then passed to DCMS and HMT. This would enable better transparency of the fine income process and clearly describe the process of fine setting, collection and write off. By producing a Trust Statement it separates from the core

accounts the financial transactions associated with fines and penalties. This is particularly important as the size of our fines become larger and more material to readers of the accounts.

- 3.2. The ICO collects fines and penalties and passes all of the income received across to DCMS and HMT. We disclose this through a note within the accounts and as we do not withhold any of the fine or penalty income there is no impact on our operating position. This note details all fines and penalties issued within the year and the year-end payable figure. These are reflected at the year end with a debtor showing payments due to the ICO and the liability of the payments to be made to DCMS. We also included, for the first time, a more detailed explanation of this process in our Annual Report in 2020/21 to enhance disclosure.
- 3.3. In order to introduce the Statement, we would need agreement from HMT and from DCMS. This is because the ICO's accounts are consolidated into DCMS's overall accounts, and therefore the Trust Statement would also need to be included in their accounts.
- 3.4. In 2020/21, DCMS, National Audit Office and HMT all agreed that there was no requirement to complete a Trust Statement. This is because there is already a detailed disclosure in the ICO's accounts (Note 5b of the 2020/21 ICO accounts (p.125)) that details the amounts collected and surrendered to the consolidated fund. This therefore meets the reporting requirements as set out in the government's Financial Reporting Manual.
- 3.5. This issue has been discussed again with DCMS this summer and they have indicated that they believe that the reasons given in the prior year still apply to ICO and so are not in a position to support the inclusion of a Trust Statement in the ICO's accounts.
- 3.6. It is their view that:
  - 3.6.1. Per the management agreement, it is for the Secretary of State to direct the accounts preparation for the ICO and the Accounting Officer needs to ensure that these directions are followed. The DCMS Secretary of State has not directed that ICO produce a Trust Statement.
  - 3.6.2. Any Trust Statement needs to be agreed by HMT and form part of the trust statement account direction list. This needs to be done by December. Whilst there is time to add to the

account direction list, it would be subject to HMT approval for this year end. HMT have indicated that they do not support the inclusion of the ICO on this list given that the level of fines are not material at DCMS Group level.

3.7.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

#### 4. Recommendations

4.1. As set out above, this paper recommends the following:

4.1.1.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

4.1.2.

We continue to include an enhanced disclosure in our accounts of the collection, write off and costs of our fines, as we did in the 2020/21 Annual Report.

Author: Louise Byers

Consultees: DCMS, Resources Board.